

03/30/99
JCS20 U.S. PTO

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Anticipated Classification of this application:

Class _____ Subclass _____

Prior application: _____

Examiner: Tung

Art Unit: 1644



22249

PATENT TRADEMARK OFFICE

BOX PATENT APPLICATION
Assistant Commissioner for Patents
Washington, D. C. 20231

FILING UNDER 37 CFR § 1.53(B)

This is a request for filing for a

☐ continuation

☐ divisional

☒ continuation-in-part (CIP)

application under 37 CFR § 1.53(b) of pending prior application Serial No. 09/058,331 filed on April 9, 1998 of

Robert Lawton, Brion Mermer, Greg Francoeur

for: **SPECIFIC BINDING PROTEIN FOR TREATING CANINE ALLERGY**

I. PAPERS ENCLOSED HERewith FOR FILING:

37 Page(s) of Specification

14 Page(s) Claims

1 Page(s) Abstract

15 Sheets of Drawings ☒ Informal ☐ Formal

 Page(s) of Declaration and Power of Attorney

 Small Entity Statement

LA-81784.1

CERTIFICATE OF MAILING
(37 C.F.R. § 1.10)

I hereby certify that this paper (along with any referred to as being attached or enclosed) is being deposited with the United States Postal Service on the date shown below with sufficient postage as 'Express Mail Post Office To Addressee' in an envelope addressed to the Assistant Commissioner for Patents, Washington, D.C. 20231.

EM350826021US

Express Mail Label No.

March 30, 1999

Date of Deposit

RUDY REYES

Name of Person Mailing Paper

Signature of Person Mailing Paper

- ☐ Pursuant to 37 CFR 1.63(d)(1), a newly executed oath or declaration is not required.
- ☐ A newly executed oath or declaration is filed herewith
- ☐ I hereby state that the amendment referred to in the declaration filed to complete the prior application, in accordance with the requirements of 37 CFR § 1.53(b), did not introduce new matter therein.

II. AMENDMENTS

- ☐ Cancel in this application original Claims _____ of the prior application before calculating the filing fee. (At least one original independent claim must be retained for filing purposes.)
- ☐ A Preliminary Amendment is enclosed. (Claims added by Amendment must be numbered consecutively beginning with the number next following the highest numbered original claim in the prior application.)

III. INFORMATION DISCLOSURE STATEMENT

- ☐ An Information Disclosure Statement, PTO 1449, and references are submitted herewith.

IV. PETITION FOR SUSPENSION OF PROSECUTION FOR THE TIME TO FILE AN AMENDMENT

- ☐ There is provided herewith a PETITION FOR SUSPENSION OF PROSECUTION FOR THE TIME NECESSARY TO FILE AN AMENDMENT (NEW APPLICATION FILED CONCURRENTLY).

V. FEE CALCULATION

BASIC FILING FEE:					\$760.00
Total Claims	-	20	=	0	x \$18.00 \$0.00
Independent Claims	-	3	=	0	x \$78.00 \$0.00
Multiple Dependent Claims	\$260	(if applicable)		<input type="checkbox"/>	\$0.00
Surcharge 37 CFR § 1.16(e)	\$130	(if applicable)		<input type="checkbox"/>	\$0.00
TOTAL OF ABOVE CALCULATIONS					\$760.00
Reduction by ½ for Filing by Small Entity. Note 37 CFR §§ 1.9, 1.27, 1.28. If applicable, Verified Statement must be attached.					\$0.00
Misc. Filing Fees (Recordation of Assignment)					\$0.00
TOTAL FEES					\$760.00

- ☒ The fee for extra claims is not being paid at this time.

VI. SMALL ENTITY STATUS

A Verified Statement to establish small entity under 37 CFR §§ 1.9 and 1.27:

- ☐ is attached
- ☐ has been filed in the prior application and such status is still proper and desired. [37 CFR § 1.28(a)]

Filing Fee Calculation (50% of above) _____

VII. DRAWINGS

[NOTE: DO NOT CHECK THIS IF PRIOR CASE IS NOT TO BE ABANDONED.]

- ☐ Transfer the drawings from the prior application to this application and, subject to Item 16 below, abandon said prior application as of the filing date accorded to this application. A duplicate copy of this request is enclosed for filing in the prior application file.
[May only be used if signed by (1) applicant, (2) assignee of record or (3) attorney or agent of record and before payment of issue fee. 37 CFR § 1.138.]
- ☐ Transfer the following sheet(s) of drawings from the prior application to this application.
- ☐ New drawings are enclosed ☐ formal ☐ informal

VIII. PRIORITY - 35 USC § 119

- ☐ Priority of application Serial No. _____ filed on _____ in Country is claimed under 35 USC § 119.
- ☐ The certified copy has been filed in prior U.S. application Serial No. _____ on _____.
- ☐ The certified copy will follow.

IX. RELATE BACK - 35 USC § 120

- ☒ Amend the Specification by inserting before the first line the sentence:
This is a continuation of co-pending application Serial No. 09/058,331 filed April 9, 1998.

X. INVENTORSHIP STATEMENT

- ☒ With respect to the prior co-pending U.S. application from which this application claims benefit under 35 USC § 120, the inventor(s) in this application is (are):

- ☒ the same
- ☐ less than those named in the prior application and it is requested that the following inventor(s) identified above for the prior application be deleted:
- ☒ The inventorship for all the claims in this application are:
- ☒ the same
- ☐ not the same, and an explanation, including the ownership of the various claims at the time the last claimed invention was made, is submitted.

XI. ASSIGNMENT

- ☒ The prior application is assigned of record to IDEXX LABORATORIES, INC..
- ☐ An Assignment of the invention to _____ is attached.

XII. FEE PAYMENT BEING MADE AT THIS TIME

- ☐ Not attached. No filing fee is submitted. [This and the surcharge required by 37 CFR § 1.16(e) can be paid subsequently.]
- ☐ Attached.
- ☐ Filing fees. _____
- ☐ Recording assignment. [\$40.00 37 CFR § 1.21(h)(1)] _____
- Petition fee for filing by other than all the inventors or person on behalf of the inventor where inventor refused to sign or cannot be reached.
[\$130.00; 37 CFR §§ 1.47 and 1.17(h)] _____
- ☐ Petition fee to Suspend Prosecution for the Time Necessary to File an Amendment (New Application Filed Concurrently.) _____
- [\$130.00; 37 CFR §§ 1.103 and 1.17(i)] _____
- ☐ For processing an application with a specification in a non-English language. _____
- [\$130.00; 37 CFR §§ 1.52(d) and 1.17(k)] _____
- ☐ Processing and retention fee. _____
- [\$130.00; 37 CFR §§ 1.53(f) and 1.21(l)] _____

Total Fees Enclosed _____

XIII. METHOD OF PAYMENT OF FEES

- ☐ Attached is a check in the amount of ____.
- ☐ Charge Deposit Account No. **12-2475** in the amount of ____.

XIV. AUTHORIZATION TO CHARGE ADDITIONAL FEES

The Commissioner is hereby authorized to charge the following additional fees by this paper and during the entire pendency of this application to Deposit Account No. **12-2475**:

- ☐ 37 CFR § 1.16(a) (filing fees)
- ☐ 37 CFR § 1.16(b) (presentation of extra claims)
- ☐ 37 CFR § 1.16(e) (surcharge for filing the basic filing fee and/or declaration on a date later than the filing date of the application)
- ☐ 37 CFR § 1.17 (application processing fees)
- ☐ 37 CFR § 1.18 (issue fee at or before mailing of Notice of Allowance, pursuant to 37 CFR § 1.311(b))

XV. INSTRUCTIONS AS TO OVERPAYMENT

- ☐ Credit Deposit Account No. **12-2475**.
- ☐ Refund

XVI. POWER OF ATTORNEY

- ☐ The power of attorney in the prior application is to ____.
- ☒ The power of attorney in the prior application is to the registered attorneys listed below and members of or associates in the law firm of **LYON & LYON LLP**, 633 West Fifth Street, 47th Floor, Los Angeles, California 90071, Registration No. 11,611, whose members are registered to practice in the U.S. Patent and Trademark office:

Roland N. Smoot, Reg. No. 18,718
Conrad R. Solum, Jr., Reg. No. 20,467
James W. Geriak, Reg. No. 20,233
Robert M. Taylor, Jr., Reg. No. 19,848
Samuel B. Stone, Reg. No. 19,297
Douglas E. Olson, Reg. No. 22,798
Robert E. Lyon, Reg. No. 24,171
Robert C. Weiss, Reg. No. 24,939
Richard E. Lyon, Jr., Reg. No. 26,300
John D. McConaghy, Reg. No. 26,733
William C. Steffin, Reg. No. 26,811
Coe A. Bloomberg, Reg. No. 26,605
J. Donald McCarthy, Reg. No. 25,119
John M. Benassi, Reg. No. 27,483
James J. Shalek, Reg. No. 29,749
Allan W. Jansen, Reg. No. 29,035
Robert W. Dickerson, Reg. No. 29,914
Roy L. Anderson, Reg. No. 30,240
David B. Murphy, Reg. No. 31,125

James C. Brooks, Reg. No. 29,898
Jeffrey M. Olson, Reg. No. 30,790
Steven D. Hemminger, Reg. No. 30,755
Jerrold B. Reilly, Reg. No. 32,293
Paul H. Meier, Reg. No. 32,274
John A. Rafter, Jr., Reg. No. 31,653
Kenneth H. Ohriner, Reg. No. 31,646
Mary S. Consalvi, Reg. No. 32,212
Lois M. Kwasigroch, Reg. No. 35,579
Lawrence R. LaPorte, Reg. No. 38,948
Robert C. Laurenson, Reg. No. 34,206
Carol A. Schneider, Reg. No. 34,923
Hope E. Melville, Reg. No. 34,874
Michael J. Wise, Reg. No. 34,047
Richard J. Warburg, Reg. No. 32,327
Kurt T. Mulville, Reg. No. 37,194
Theodore S. Maceiko, Reg. No. 35,593
Bruce G. Chapman, Reg. No. 33,846
F. T. Alexandra Mahaney, Reg. No. 37,668
Reg. No. _____

- ☒ The power appears in the original papers in the prior application.
- ☐ The power does not appear in the original papers, but was filed on _____ in this application.
- ☐ A new power has been executed and is attached.
- ☒ Address all future communications to:

LYON & LYON LLP
633 West Fifth Street, 47th Floor
Los Angeles, California 90071
(213) 489-1600
Attention: Carol A. Schneider, Ph.D., J.D.

XVII. MAINTENANCE OF CO-PENDENCY OF PRIOR APPLICATION

- ☐ A petition, fee and response has been filed to extend the term in the pending **prior** application until _____. A copy of the petition for extension of time in the **prior** application is attached.

XVIII. CONDITIONAL PETITIONS FOR EXTENSION OF TIME IN PRIOR APPLICATION

- ☐ A conditional petition for extension of time is being filed in the pending **prior** application. A copy of the conditional petition for extension of time in the **prior** application is attached.

XIX. ABANDONMENT OF PRIOR APPLICATION

- ☒ Please abandon the prior application at a time while the prior application is pending or when the petition for extension of time or to revive in that application is granted and when this application is granted a filing date so as to make this application co-pending with said prior application. At the same time, please add the words "now abandoned" to the amendment of the specification set forth in Item 2 above.

Respectfully submitted,

LYON & LYON LLP

Dated: March 30, 1999

By: Carol A. Schneider
Carol A. Schneider, Ph.D., J.D.
Reg. No. 34,923

633 West Fifth Street, Suite 4700
Los Angeles, California 90071-2066
(213) 489-1600

Enclosures

Name of Assignee

Address of Assignee

Title of person authorized to sign on behalf of assignee

Assignment recorded in PTO on _____, Reel _____, Frame _____

ATCC

10801 University Blvd • Manassas, VA 20110-2209 • Telephone: 703-365-2700 • FAX: 703-365-2745

BUDAPEST TREATY ON THE INTERNATIONAL RECOGNITION OF THE DEPOSIT OF MICROORGANISMS FOR THE PURPOSES OF PATENT PROCEDURE

INTERNATIONAL FORM

RECEIPT IN THE CASE OF AN ORIGINAL DEPOSIT ISSUED PURSUANT TO RULE 7.3 AND VIABILITY STATEMENT ISSUED PURSUANT TO RULE 10.2

To: (Name and Address of Depositor or Attorney)

IDEXX Laboratories, Inc.
Attn: Eugene R. Krah III
One IDEXX Drive
Westbrook, ME 04092

Deposited on Behalf of: IDEXX Laboratories, Inc.

Identification Reference by Depositor:

Patent Deposit Designation

Murine Hybridoma Cell Line: 8H8

PTA-4597

The deposit was accompanied by: ☐ a scientific description ☐ a proposed taxonomic description indicated above.

The deposit was received August 14, 2002 by this International Depository Authority and has been accepted.

AT YOUR REQUEST: ☒ We will inform you of requests for the strain for 30 years.

The strain will be made available if a patent office signatory to the Budapest Treaty certifies one's right to receive, or if a U.S. Patent is issued citing the strain, and ATCC is instructed by the United States Patent & Trademark Office or the depositor to release said strain.

If the culture should die or be destroyed during the effective term of the deposit, it shall be your responsibility to replace it with living culture of the same.

The strain will be maintained for a period of at least 30 years from date of deposit, or five years after the most recent request for a sample, whichever is longer. The United States and many other countries are signatory to the Budapest Treaty.

The viability of the culture cited above was tested August 16, 2002. On that date, the culture was viable.

International Depository Authority: American Type Culture Collection, Manassas, VA 20110-2209 USA.

Signature of person having authority to represent ATCC:

Marie Harris Date: August 29, 2002
Marie Harris, Patent Specialist, ATCC Patent Depository

cc: Lisa Hillman
(Ref: Docket or Case No.: MBHB 01-1275-A)